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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-556*

12 **NANCY LEE BURBANK aka NANCY LEE**
13 **MORANCY**

A C C U S A T I O N

14 **1150 E. Amado Road #17A1**
15 **Palm Springs, CA 92262**

16 **Registered Nurse License No. 693726**

17 **Respondent.**

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 2. On or about December 7, 2006, the Board issued Registered Nurse License Number
24 693726 to Nancy Lee Burbank aka Nancy Lee Morancy ("Respondent"). The Registered Nurse
25 License has been active at all times relevant herein and expires on May 31, 2012, unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
28 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
the Nursing Practice Act.

1 4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
3 licensee or to render a decision imposing discipline on the license. Under Section 2811
4 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
5 years after the expiration.

6 5. Sections 118 subdivision (b) of the Code also grants the Board jurisdiction over
7 suspended, expired, forfeited, cancelled, or surrendered licenses:

8 “The suspension, expiration, or forfeiture by operation of law of a license issued by a
9 board in the department, or its suspension, forfeiture, or cancellation by order of the
10 board or by order of a court of law, or its surrender without the written consent of the
11 board, shall not, during any period in which it may be renewed, restored, reissued, or
12 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground.”

13 6. Section 2761 of the Code provides grounds for disciplinary action:

14 “The board may take disciplinary action against a certified or licensed
15 nurse or deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

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18 (4) Denial of licensure, revocation, suspension, restriction, or
19 any other disciplinary action against a health care professional license or
20 certificate by another state or territory of the United States, by any other
government agency, or by another California health care professional
21 licensing board. A certified copy of the decision or judgment shall be
conclusive evidence of that action.”

22 COST RECOVERY

23 7. Code section 125.3 provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Disciplinary Action by the New Hampshire Board of Nursing)**

3 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),
4 on the grounds of unprofessional conduct because she was disciplined by the New Hampshire
5 Board of Nursing ("New Hampshire Board"), as follows:

6 9. On or about February 21, 2007, the New Hampshire Board entered findings of fact,
7 conclusions of law and a disciplinary order in the disciplinary action entitled, *Nancy Burbank, RN*
8 *# 042363-21*. In its disciplinary order, the New Hampshire Board found as follows:

9 10. From approximately March 16, 2006 to April 21, 2006, Respondent was working at
10 St. Francis Healthcare Center in Laconia, New Hampshire as a registered nurse. During this time,
11 Respondent was the MDS Coordinator for the center.

12 11. The Minimum Data Set ("MDS") is a standardized uniform comprehensive
13 assessment of all residents in Medicare or Medicaid certified facilities mandated by federal law.
14 It is used to monitor the quality of care in the nation's nursing homes. Data collected from MDS
15 assessments are used for the Medicare reimbursement system, for state Medicaid reimbursement
16 systems, and to monitor the quality of care provided to nursing facility residents. The MDS
17 contains items that reflect the acuity level of the resident including diagnoses, treatments and an
18 evaluation of the resident's functional status.

19 12. On or about March 16, 2006, the New Hampshire Bureau of Health Facility
20 Administration conducted a random audit of the treatment records at St. Francis Healthcare
21 Center. This audit discovered that MDS assessments for certain patients had not been completed
22 on the required dates.

23 13. On or about April 21, 2006, Respondent resigned as MDS Coordinator from St.
24 Francis Healthcare Center.

25 14. On or about April 24, 2006, the audit team returned to verify whether St. Francis
26 Healthcare was in compliance with federal and state requirements for MDS assessments. During
27 this second visit, the audit team discovered that Respondent had falsified patient records by
28 backdating the dates for MDS assessments for four patients.

15. On or about April 25 to April 26, 2006, Respondent failed to respond to her employer's questions about the falsified MDS assessments.

16. On or about June 30, 2006, Respondent refused to specifically address questions from the New Hampshire Board regarding the falsified MDS assessments.

17. For Respondent's actions from March 16, 2006 to April 21, 2006, the New Hampshire Board imposed disciplinary action on Respondent, including suspending her nursing license for a year, ordering her to pay a civil penalty of \$500, and ordering her to complete a remedial course on ethics and medical documentation.

18. Under Section 2761 subdivision (a)(4) of the Code, the New Hampshire Board's disciplinary action suspending Respondent's license for falsifying MDS assessments is ground for the California Board to take disciplinary action.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. By committing the acts set forth in paragraphs 8-18, above, Respondent is subject to discipline under Code section 2761 subdivision (a) on the grounds of unprofessional conduct for falsifying patient MDS assessments.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 693726, issued to Nancy Lee Burbank aka Nancy Lee Morancy;

2. Ordering Nancy Lee Burbank aka Nancy Lee Morancy to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code Section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED:

December 21, 2010

Louise R. Bailey

LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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